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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,773	10/24/2003	John Chen	15436.247.8.1	1968

22913 7590 03/24/2006

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EXAMINER

AKANBI, ISIAKA O

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/693,773

Applicant(s)

CHEN ET AL.

Examiner

Isiaka O. Akanbi

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2 November 2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement file 2 November 2004 has been entered and reference considered by the examiner.

### ***Drawings***

The examiner approves the drawings filed 24 October 2003.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-15, 18-20 and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujimura et al. (5,666,450).

As regard to claim 1, Fujimura discloses an apparatus to measure a concentricity of optical components in an optical assembly, said optical assembly comprising a header with a photonic device mounted thereon, said photonic device having a first optical axis, said optical assembly further comprising a cap having a lens therein, said lens having a second optical axis, comprising of the following:

a chuck configured to support said optical assembly, said chuck being adapted to support said optical assembly without obstructing a view of at least a portion of said lens and a visual display system adapted to depict a position of said lens relative to said photonic device and to measure said position (figs. 1 and 2)(col. 8, line 55-65).

As to claim 2, according to claim 1, Fujimura discloses wherein said measurement is used to determine said concentricity between said first optical axis and said second optical axis (figs. 1 and 2)(col. 1, line 53-col. 3, line 1).

As to claims 3, 13 and 19-20, Fujimura discloses wherein said visual display system comprising at least one camera and at least one video display (figs. 1 and 2)(col. 8, line 55-65).

As to claims 7 and 24, Fujimura discloses wherein said lens is a ball lens (6) and said photonic device is a laser (16).

As to claims 8-9 and 25-26, Fujimura discloses wherein said first optical axis is collinear with a beam emitted from said laser (16) and said second optical axis passes through a center of said ball lens (figs. 1 and 2)(col. 2, line 33-42).

As to claims 12 and 18, Fujimura discloses a method for measuring a concentricity of optical components in an optical assembly comprising:

a step for providing an optical assembly (109), said optical assembly having at least one component mounted on a base(116), a step for mounting said optical assembly in a chuck (110) and a step for measuring said concentricity of said component relative to said base using a visual display system (figs. 16 and 17)(col. 17, line 40-col. 18, line 1-56)(col. 7, line 57-62).

As to claim 15, Fujimura discloses wherein said component is a laser having a first axis and said base is a header having a second axis parallel to said first axis, and wherein the step for measuring measures the distance between said first axis and said second axis (figs. 16 and 17)(col. 17, line 40-col. 18, line 1-56)(col. 7, line 56-67)

As to claims 10-11 and 27-28, Fujimura discloses further in another embodiment (fig. 10) wherein said optical assembly is held in an arm (96) and said visual display system is movable relative to said arm and said optical assembly is held in an arm and said arm is movable relative to said visual display system (col. 14, line 11-38).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimura et al. (5,963,696), as applied to claim 3, in view of the examiner Official Notice.

As to claims 4, 14 and 21, the reference of Fujimura is silent with regard to said camera further comprising a zoom lens. The examiner wishes to take Official Notice of the fact that the use of a camera with zoom lens would have been well known as evident by Mazumder et al. (5,446,549). It would have been obvious to one having ordinary skill in the art at the time of invention to provide a camera comprising a zoom lens for the purpose of zoom in or out camera to obtain a better image of the alignment.

Claims 5-6, 16-17 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimura et al. (5,963,696) in view of Staver et al. (5,621,831)

Claims 5, 16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over of Fujimura in view of Staver, as applied to claims 3 and 13. The reference of Fujimura teaches of the features of claims 3 and 13, comprising at least one camera and at least one video display (figs. 1 and 2)(col. 8, line 55-65, however the reference of Fujimura is silent regarding the wherein said visual display system includes a video overlay including at least one calibration feature that allows said concentricity to be measured. The reference of Staver teaches of visual display system that includes a video overlay including at least one calibration feature that allows said concentricity to be measured (fig. 3)(col. 5, line 4-30). Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to provide visual display system includes a video overlay including at least one calibration feature that allows said concentricity to be measured for the purpose of aiding a person to align accurately.

As to claims 6, 17 and 23, Fujimura and Staver discloses the claimed invention, as applied to claim 5, 16 and 22 above, except for is silent regarding calibration feature that allows said concentricity to be measured to within 1 micron, however it would have been obvious to one having ordinary skill in the art at the time of invention to design a calibration feature that would allows said concentricity to be measured to within certain micron/degree (i.e. 1 micron) for the purpose of providing/discovering the optimum or workable ranges for a more accurate measurement. (see In re Aller, 105 USPQ 233).

### **Additional Prior Art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed in the attached form PTO-892 teaches of other prior art apparatus/method for measuring a concentricity of optical components in an optical assembly that may anticipate or obviate the claims of the applicant's invention.

### **Conclusion**

### **Official Notice**

Several facts have been relied upon from the personal knowledge of the examiner about which the examiner took Official Notice. Applicant must seasonably challenge well known statements and statements based on personal knowledge. In re Selmi, 156 F.2d 96, 70 USPQ 197 (CCPA 1946); In re Fischer, 125 F.2d 725, 52 USPQ 473 (CCPA 1942). See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice). If applicant does not seasonably traverse the well-known statement during examination, then the object of the well-known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well-known statement was made. See MPEP 2144.03, paragraphs 4 and 6.

### **Fax/Telephone Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isiaka Akanbi whose telephone number is (571) 272-8658. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley Jr. can be reached on (571) 272-2800 ext. 77. The fax phone

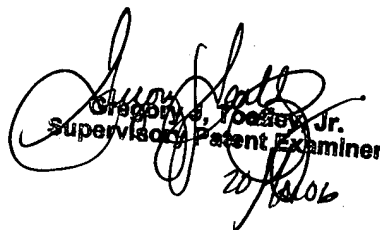
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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Isiaka Akanbi

March 16, 2006

  
Gregory A. Padden Jr.  
Supervisory Patent Examiner  
20/06